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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/542,077

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EXAMINER

WALKER, NED ANDREW

ART UNIT

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3781

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/542,077	Applicant(s) BANDOH ET AL.	
	Examiner NED A. WALKER	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/21/05, 04/30/07</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required in this application because:

The drawing sheet numbering is formatted improperly. The drawing sheet numbering must be clear and larger than the numbers used as reference characters to avoid confusion. Refer to 37 CFR 1.84(t). See Figure(s) 1-17.

2. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title should include at least one technical or inventive feature (i.e. push-button closure with slidable lock for securing lid) set forth in the application.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 6 defines "a groove portion" in line 4 of the claim; however, "a groove portion" has previously been defined in claim 4, line 10. Consequently, this limitation and subsequent recitations of "the groove portion" in claims 6 and 7 are ambiguous and therefore there is insufficient antecedent basis for these limitations in the claims.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-6, 8-11, 13-16, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Bernstein et al. (US Pat. No. 5,385,259).

Regarding claim 1, Bernstein et al. teaches a container with a lid comprising a container main body (figure 1) having a take-out port for a content (figure 7), a lid (22) attached to the container main body so as to open and close the take-out port, a lid urging device (112) interposed between the container main body and the lid for urging the lid in an opening direction (column 4 lines 35-38), and an operation member (134) attached to the container main body in the state that the operation member can be operated between a close position (figures 1 and 12) at which it is meshed with the lid and keeps the lid in a closed state against the lid urging device and an open position at

which the operation member is released (figures 6 and 14) from the lid meshed therewith, wherein: a locking member (146) is attached to the operation member, the locking member being movable between a locking position (figure 12), at which the locking member is meshed with the lid that is in the closed state as well as is abutted against a locking surface (150) of the container main body as to an operating direction of the operation member to thereby make it impossible for the operation member to be operated from the close position to the open position (figure 12), and a release position (figure 14), at which the locking member is separated from the lid that is in the closed state and from the locking surface of the container main body and permits the operation member to be operated from the close position to the open position (figure 14).

Regarding claim 2, Bernstein et al. teaches wherein an operation surface (142), which is exposed to an outside surface side of the container main body, is formed to the operation member, and the locking member (146) is disposed so as to be movable between the locking position and the release position on a back surface side of the operation surface (figures 1 and 15).

Regarding claim 3, Bernstein et al. teaches wherein the operation member is disposed so as to move from the close position to the open position by depressing the operation surface and the locking member is disposed so as to move between the locking position and the release position in the state that it is supported by the operation member as to the direction in which the operation surface is depressed (figures 12 and 14).

Regarding claim 4, Bernstein et al. teaches wherein a guide surface (174), which is in contact with the locking member, is formed on the back surface side of the operation member (figure 12) as well as a spring portion (173), which protrudes from the guide surface and urges the operation member to the close position, is disposed to the back surface side thereof, and the locking member is supported so as to be slidable between the locking position and the release position while being in contact with the guide surface by being inserted into a groove portion formed in the spring portion (area inside spring coils).

Regarding claim 5, Bernstein et al. teaches comprising an extraction prevention device (182) for preventing the locking member from being extracted from the groove portion of the operation member (column 5 lines 43-45).

Regarding claim 6, Bernstein et al. teaches wherein a shaft portion (172), which is divided by a slit (170), is disposed on the back surface side of the operation member, a groove portion (groove within 148 in figure 15), which is engaged with the shaft portion, is formed to the locking member so as to open in the direction in which the locking member is inserted into the groove portion of the operation member, and a pawl portion (184) as the extraction prevention device, which reduces the width of the groove, is disposed in the groove (figure 13).

Regarding claim 8, Bernstein et al. teaches wherein a stepped portion (184) is disposed on the back surface side of the operation member, and a protruding stopper (182) as the extraction prevention device is disposed on the surface of the locking member confronting the operation member, the stopper being capable of being

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engaged with the stepped portion as to the direction in which the locking member is extracted from the groove portion of the operation member as well as extending in a wedge state as to the direction in which the locking member is inserted into the groove portion of the operation member (figure 13).

Regarding claim 9, Bernstein et al. teaches wherein a pawl portion (184) as the extraction prevention device is disposed to the locking member, the pawl portion more protruding laterally with respect to the extracting direction in which the locking member is extracted from the groove portion of the operation member as it more advances in the extracting direction (figures 12-14).

Regarding claim 10, Bernstein et al. teaches wherein a finger-placing portion is disposed to the locking member, the finger-placing portion being located at the end of the operation member in the extracting direction thereof with respect to the groove portion of the operation member and protruding from the operation surface.

Regarding claim 11, Bernstein et al. teaches wherein the finger-placing portion (see arrow above 142 in figure 14, pointing to pressing surface) protrudes beyond the outside surface of the container main body (figure 6).

Regarding claim 13, Bernstein et al. teaches wherein a leg portion (152), which is abutted against the locking surface of the container main body at the locking position, is disposed on the back surface side of the locking member (figure 12).

Regarding claim 14, Bernstein et al. teaches wherein a locking concave portion (138) is disposed to the front edge of the lid that confronts the operation member when the lid is in the closed state (figure 12), and a locking portion (150) is disposed to the

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locking member, the locking portion being inserted into the locking concave portion when the lid is closed and the locking member is moved to the locking position and released from the locking concave portion when the locking member is moved to the release position (figures 12 and 14).

Regarding claim 15, Bernstein et al. teaches wherein a push-up member (160) is disposed to the operation member or the locking member, the push-up member coming into contact with the lid and pushing up the lid in a direction where it is opened when the operation member is operated from the close position to the open position (figure 14, column 5 lines 16-20).

Regarding claims 16 and 19, Bernstein et al. teaches wherein a strap attachment portion (36), to which a strap can be attached, is disposed to the container main body. A strap is capable of being attached to this piece.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 12 and 18 are rejected under 35 U.S.C. 103(a) as being obvious over Bernstein et al. (US Pat. No. 5,385,259) in view of Wells (US Pat. No. 5,131,551).

Regarding claims 12 and 18, Bernstein et al. teaches substantially all the limitations of the claims except wherein the container main body is formed in a constricted shape in which the central portion thereof is constricted when it is viewed from the take-out port side, and the operation member is disposed in the constricted portion.

Wells teaches wherein the container main body is formed in a constricted shape in which the central portion thereof is constricted when it is viewed from the take-out port side, and the operation member is disposed in the constricted portion for the purpose of preventing inadvertent opening of the lock.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to dispose the lid operation member in a constricted sidewall portion in order to prevent inadvertent opening of the lid.

12. Claim 17 is rejected under 35 U.S.C. 103(a) as being obvious over Bernstein et al. (US Pat. No. 5,385,259) in view of Pitts (US Pub No. 20010028561).

Regarding claim 17, Bernstein et al. teaches substantially all the limitations of the claim except wherein any one of the operation member and the locking member contains a luminous material.

Pitts (figure 1) teaches wherein any one of the operation member and the locking member (66, 160, 162) contains a luminous material (40) for the purpose of providing luminosity and for affording visibility to the upper lid section in the absence of any other light source [0030].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate luminous material as stated in order to provide luminosity for affording visibility in the absence of any other light source so that a user can locate and open the lid when it is dark.

Allowable Subject Matter

13. Claim 7 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the relevant prior art does not disclose the prior limitations further comprising wherein the groove portion of the locking member is partitioned by the pawl portion to a first holding portion, to which the shaft portion is fitted when the locking member is located at the release position, and a second holding portion to which the shaft portion is fitted when the locking member is located at the locking position, nor would this limitation be obvious over the prior art to one of ordinary skill in the art.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NED A. WALKER whose telephone number is (571)270-3545. The examiner can normally be reached on Monday - Friday 7:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NW

/Anthony D Stashick/
Anthony Stashick

Supervisory Patent Examiner, Art Unit 3781